

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

DIEDRA FRAN KERR
a.k.a. DIEDRA KERR
101 Brookline Street
Moraga, CA 94556

Registered Nurse License No. 596001

Respondent

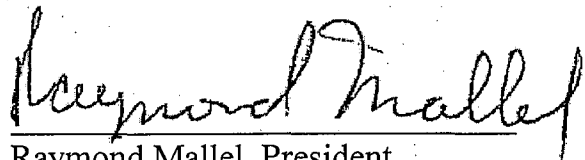
Case No. 2012-406

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **July 27, 2012.**

IT IS SO ORDERED **July 27, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2012-406

14 **DIEDRA FRAN KERR**
15 **a.k.a. DIEDRA KERR**
16 **57 Corte Del Sol**
Moraga, CA 94556

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17 **Registered Nurse License No. 596001**

18 Respondent.

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN, (Complainant) is the Interim Executive Officer of the
23 Board of Registered Nursing (Board). The Board is represented in this matter by Kamala D.
24 Harris, Attorney General of the State of California, by Leslie E. Brast, Deputy Attorney General
25 and assisted by Lydia Zane, Senior Legal Analyst.

26 2. Diedra Fran Kerr, a.k.a. Deidra Kerr, (Respondent) represents herself in this
27 proceeding and has chosen not to exercise her right to be represented by counsel.

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1 3. On or about March 11, 2002, the Board of Registered Nursing issued Registered
2 Nurse License No. 596001 to Respondent. The Registered Nurse License expired on September
3 30, 2011, and has not been renewed.

4 JURISDICTION

5 4. Accusation No. 2012-406 was filed before the Board and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on December 30, 2011. Respondent timely filed a written statement of her
8 intention to surrender her license in lieu of a Notice of Defense contesting the Accusation. A
9 copy of Accusation No. 2012-406 is attached as Exhibit A and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 2012-406. Respondent also has carefully read, and understands the effects of this
13 Stipulated Surrender of License and Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
16 her own expense; the right to confront and cross-examine the witnesses against her; the right to
17 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
18 compel the attendance of witnesses and the production of documents; the right to reconsideration
19 and court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 2012-406, agrees that cause exists for discipline and hereby surrenders to the Board her
26 Registered Nurse License No. 596001.

27 9. Respondent understands that by signing this stipulation, she enables the Board to
28 issue an order accepting the surrender of her Registered Nurse License without further response.

CONTINGENCY

25. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and Board staff may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel.

By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation before the Board act on it or it becomes effective by operation of law pursuant to the Administrative Procedure Act (Gov. Code, § 11340 et seq.). If the Stipulated Surrender and Disciplinary Order is rejected by the Board as the final resolution of the pending accusation, it shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

10. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

11. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

12. In consideration of the foregoing admissions and stipulations, the parties agree to the following Order.

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 596001, issued to Respondent Diedra Fran Kerr, a.k.a. Diedra Kerr, is surrendered and accepted by the Board of Registered Nursing.

1. The surrender of Respondent's Registered Nurse License shall constitute the

1 imposition of discipline against Respondent. This stipulation constitutes a record of the discipline
2 and shall become a part of Respondent's license history with the Board.

3 2. Respondent shall lose all rights and privileges as a Registered Nurse in California as
4 of the effective date of the Decision and Order.

5 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
6 issued, her wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in
8 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
9 comply with all the laws, regulations and procedures for reinstatement of a surrendered license in
10 effect at the time the petition is filed, and all of the charges and allegations contained in
11 Accusation No. 2012-406 shall be deemed to be true, correct and admitted by Respondent when
12 the Board determines whether to grant or deny the petition.

13 5. If and when Respondent's license is reinstated, she shall pay to the Board costs
14 associated with its investigation and enforcement, pursuant to Business and Professions Code
15 section 125.3, in the amount of \$1,647.50. Respondent shall be permitted to pay these costs in a
16 payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the
17 Board from reducing the amount of cost recovery upon reinstatement of the license.

18 6. If Respondent should ever apply or reapply for a new license or certification, or
19 petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Accusation, No. 2012-406 shall be
21 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
22 Issues or any other proceeding seeking to deny or restrict licensure.

23 7. Respondent shall not apply for licensure or petition for reinstatement for two (2)
24 years from the effective date of the Decision and Order.

25 ACCEPTANCE

26 I have carefully read the Stipulated Surrender of License and Order. I understand the
27 stipulation and the effect it will have on my Registered Nurse License.

28 I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and

1 intelligently, and agree to be bound by the Decision and Order.

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4 DATED: 04/30/2012 Diedra Fran Kerr
5 DIEDRA FRAN KERR,
6 a.k.a. DIEDRA KERR
7 Respondent

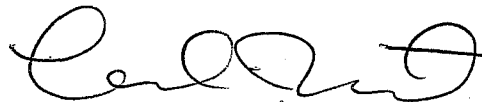
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9 ENDORSEMENT

10 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted.

11 Dated: 5/4/12

Respectfully submitted,

12 KAMALA D. HARRIS
13 Attorney General of California
14 FRANK H. PACOE
Supervising Deputy Attorney General

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16 LESLIE E. BRAST
17 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 2012-406

1 KAMALA D. HARRIS
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2 FRANK H. PACOE
Supervising Deputy Attorney General
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14 **DIEDRA FRAN KERR**
a.k.a. **DIEDRA KERR**
15 **57 Corte Del Sol**
16 **Moraga, CA 94556**

A C C U S A T I O N

17 **Registered Nurse License No. 596001**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her
22 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
23 Consumer Affairs.

24 2. On or about March 11, 2002, the Board of Registered Nursing issued Registered
25 Nurse License Number 596001 to Diedra Fran Kerr , a.k.a. Diedra Kerr, (Respondent) and was in
26 full force and effect at all times relevant to the charges brought herein. The license expired on
27 September 30, 2011, and has not been renewed.

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1 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
2 thereof."

3 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
4 revoke a license on the ground that the licensee has been convicted of a crime substantially
5 related to the qualifications, functions, or duties of the business or profession for which the
6 license was issued.

7 9. Section 492 of the Code provides in pertinent part, that, notwithstanding any other
8 provision of law, successful completion of any diversion program under the Penal Code, or
9 successful completion of an alcohol and drug problem assessment program under Article 5
10 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not
11 prohibit any agency established under Division 2 (commencing with Section 500) of this code, or
12 any initiative act referred to in that division, from taking disciplinary action against a licensee or
13 from denying a license for professional misconduct, notwithstanding that evidence of that
14 misconduct may be recorded in a record pertaining to an arrest.

15 10. Section 493 of the Code provides in pertinent part, that, notwithstanding any other
16 provision of law, in a proceeding conducted by a board within the department pursuant to law to
17 deny an application for a license or to suspend or revoke a license or otherwise take disciplinary
18 action against a person who holds a license, upon the ground that the applicant or the licensee has
19 been convicted of a crime substantially related to the qualifications, functions, and duties of the
20 license in question, the record of conviction of the crime shall be conclusive evidence of the fact
21 that the conviction occurred, but only of that fact, and the board may inquire into the
22 circumstances surrounding the commission of the crime in order to fix the degree of discipline or
23 to determine if the conviction is substantially related to the qualifications, functions, and duties of
24 the licensee in question.

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1 REGULATORY PROVISIONS

2 11. California Code of Regulations, title 16, section 1444, states in pertinent part that a
3 conviction or act shall be considered to be substantially related to the qualifications, functions or
4 duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness
5 of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

6 COST RECOVERY

7 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 CAUSE FOR DISCIPLINE

12 (Substantially Related Crime)

13 13. Respondent is subject to disciplinary action under Code sections 490, 2761(f), and
14 2762, subdivision (b) and (c), pursuant to Code sections 492 and 493, for conviction of a
15 substantially related crime, as follows:

16 On or about April 28, 2011, in Napa County Superior Court, Case No. CR155583,
17 Respondent was convicted of having violated Vehicle Code section 23152(b) (driving with a
18 blood alcohol level of .08% or higher), with an enhancement for driving with a blood alcohol
19 level of .15% or higher. Respondent's conviction arose from her January 21, 2011 arrest in
20 Fairfax, California, after having been observed driving with a half-empty wine bottle in her lap.
21 Respondent provided two breath samples both measuring her blood alcohol level at .23%.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking or suspending Registered Nurse License Number 596001, issued to Diedra
26 Fran Kerr, aka Diedra Kerr;


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1 2. Ordering Diedra Fran Kerr, aka Diedra Kerr, to pay the Board of Registered Nursing
2 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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7 DATED: December 30, 2011


LOUISE R. BAILEY, M.Ed., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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